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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,514	01/26/2004	Richard T. Miller	492.342	1038
27023 7590 05/18/2007 THE GLAD PRODUCTS COMPANY 1221 BROADWAY #2344 OAKLAND, CA 94623-1305			EXAMINER MORGAN JR, JACK HOSMER	
			ART UNIT 3782	PAPER NUMBER
			MAIL DATE 05/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/765,514

Applicant(s)

MILLER ET AL.

Examiner

Jack H. Morgan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,12-17,19-27 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,12-17,19-27 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 3-9, 12-16 rejected under 35 U.S.C. 102(e) as being anticipated by Engel et al. (US 7,178,555). Engel et al. discloses a valve element (Fig 1-6) having a membrane (Figs 1-5, 50 and Fig 6, 150) comprising a semi-rigid material Polyethylene Terephthalate (PET, Col 2, lines 28-30) (PET is semi rigid as disclosed by applicant's specification, [0050]) including a border portion (above 22 and 24 in Fig 1-5 and above 135 (not shown) in Fig 6, generally at the outer edges of the membrane) and a raised portion (in center) configurable between a first position and a second position, the first concave position obstructing fluid flow (see dashed lines in Fig 3), and the second convex position (shown with an alternate elastomeric material in Fig 7, but depending on pressures seen, the PET in Fig 3 would also extend outwardly, in a convex fashion) allowing fluid communication through an aperture (20, 120) in a base element (11, 111) comprising a flexible material PET (Col 2, lines 9-13) (PET is as a flexible synthetic material as disclosed by Zittel (US 5,809,787, Col 1, lines 16-20)) including a seat portion in addition to the aperture, the seat portion (the annular portion) having a first

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side (Fig 5, bottom of 11) attached to the border portion (via 24) and a second side (top of 11) for attaching to a flexible sidewall (16) of a packaging enclosure (via 14). The raised portion of the membrane is shaped as a dome (See Fig 3, dashed lines), the dome having an apex which aligns with the aperture (20) of the base element (11) the raised portion further having a larger diameter than the aperture (20, see Fig 3), and including an inflexion region integral with the border portion which impinges against the seat portion (in order to form a seal). Engel et al. further disclose a channel (30, 130) providing a clearance between the border portion and the seat portion.

In regards to claims 3 and 4, Engel et al. disclose a generally annular border portion (Fig 6) with the raised portion centrally located within the border portion, and further a generally annular seat portion where the aperture (120) is circular and centrally located within the seat portion.

In regards to claim 13, 14 and 15, Engel et al. disclose an adhesive (shown by thin dotted portion between larger layers, such as 12, 402 and 406) to attach the seat portion (11) to the border portion 50, via the rails of Engel et al. (22 and 24) traversing the seat portion on either side of the aperture in a parallel fashion (See Fig 1).

In regards to claim 16, Engel et al. disclose the raised portion being about half the diameter of the membrane (See Fig 3).

In regards to claims 17, 19-25, 27 and 30, Engel et al disclose the valve as described above on a wall (16) of a flexible wall packaging (Col 1, line 19).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Engel et al. (US 7,178,555) in view of Sprehe et al. (US 6,059,457). Engel et al. discloses all the limitations of the claims except for the flexible wall package having fastening strips. Sprehe et al. discloses a flexible wall package (Fig 1) with a venting mechanism (14) having a zipper strip (16) in order to reclosably close the package, which reads on applicants claimed fastening strips. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to create the flexible walled package of Engel et al. with the fastening strips of Sprehe et al. in order to reclosably close the package.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Metzger (US 2,946,502), Metzger (US 2,927,722) and Ast et al. (EP 23,703 A1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack H. Morgan whose telephone number is 571-272-3385. The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jack H Morgan
Examiner
Art Unit 3782


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER